

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission
Docket # 07-AP-7

**The proposed annexation of territory
in Oneida Township to the City of Grand Ledge,
Eaton County.**

**SUMMARY OF PROCEEDINGS,
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

SUMMARY OF PROCEEDINGS

1. On October 8, 2007, a petition designated as Docket #07-AP-7 was filed with the State Boundary Commission requesting the annexation of certain territory in Oneida Township to the City of Grand Ledge, as described in Attachment A.
2. On January 17, 2008, the State Boundary Commission examined the petition for legal sufficiency at an adjudicative meeting held in Okemos. The Commission unanimously declared this petition to be legally sufficient.
3. On April 3, 2008, the State Boundary Commission held a public hearing in Oneida Township to receive public testimony on this proposed annexation.
4. On August 21, 2008, at an adjudicative meeting, a motion was made by State Commissioner Jamnick and supported by State Commissioner Priebe to recommend denial of the proposed annexation. State Commissioner VerBurg voted nay on the motion. The motion failed for lack of three concurring votes as required by Boundary Commission Rule 51(2). Commissioner Priebe explained that his support on the motion is with some reluctance. He further commented that this is a difficult case from his perspective, and also confusing in many ways. He expressed that the development of the petitioned territory appears to be more in harmony with the organized city versus the more rural township, which he finds perplexing.

Commissioner Priebe also stated that it seems odd that the property owner would prefer to pay the additional taxes, but understands that in the long term he may think he gets a greater value, particularly if he chooses condos. He added that, unfortunately, neither of those prospects fit the criteria the commission is charged with considering, as ownership and occupancy do not fit with any of the criteria. He further stated that in his view, the record before the Commission does not specifically make the case for anything other than denial. Discussion ensued among the state commissioners on whether to table or reconsider the vote. The state commissioners expressed agreement that reconsidering the vote would not be feasible because none of them intend to change their vote.

5. On August 21, 2008, at an adjudicative meeting, a motion was made by State Commissioner Jamnick and supported by State Commissioner Priebe to table the adjudicative vote until the September commission meeting for the intent of participation by the local boundary commissioners. State Commissioners VerBurg and Priebe voted in favor of the motion. Commissioner Jamnick voted against the motion, stating that she made the motion only for the purpose of initiating such action.
6. On September 18, 2008, at an adjudicative meeting, a motion was made by State Commissioner Jamnick and supported by State Commissioner Priebe, to remove from the table consideration of the vote on a recommendation to the director of the Department of Labor and Economic Growth.
7. On September 18, 2008, at an adjudicative meeting, a motion was made by State Commissioner Priebe and supported by State Commissioner Jamnick, to recommend to the director that the proposed annexation be denied. State Commissioners Jamnick and Priebe, and Local Commissioners Carter and Reed voted in favor of the motion. State Commissioner VerBurg voted nay on the motion. The motion carried with a 4-1 vote. State Commissioner Priebe commented that although the property owner probably ought to have his way, basic motivating factors are not prevalent, such as new build, existing facility modifications, or the need to obtain urban services which are not already available. He also stated the petitioner is neither inhibited in the use or development of the property, nor in receiving any serious public services, as these factors are already in place. In explaining her support to deny the proposed annexation, State Commissioner Jamnick said she finds no valid reason to annex the property other than the desire of the property owner. She stated that to trade lower water bills for higher taxes is financially difficult to accept. She also relayed that public services have been adequately provided (to the subject property); she has not heard of any discomfort or problems from the people living within these two properties (Oak Tree Village and Independence Village); and, the municipalities have reported that tax sharing is in place and that it will continue. State Commissioners Jamnick and Priebe further expressed their opposition to the proposed annexation based on concerns as to why the subject property was not included at the time that the adjacent property, Independence Village, which was referred to by the petitioner as sister-property, was petitioned for annexation in 1998 to the Boundary Commission. State

Commissioner Jamnick also commented that an agreement was later executed that left the door open for the opportunity and expectation to annex the property when both parcels were being developed; however, the choice was made at that time not to annex (the subject property). The Chairman directed commission staff to prepare a draft Findings of Fact to be presented to the Commission for review and adoption at the next commission meeting.

8. On November 13, 2008, at an adjudicative meeting, the State Commissioners voted unanimously to postpone consideration of a draft Summary of Proceedings, Findings of Fact and Conclusions of Law until the December 11, 2008 meeting because of unexpected time constraints incurred by commission staff.
9. On December 11, 2008, at an adjudicative meeting, a motion was made by State Commissioner Jamnick and supported by Local Commissioner Carter to adopt with approved revisions the draft Summary of Proceedings, Findings of Fact, and Conclusions of Law, that they be signed by the Chairman, and that commission staff transmit the Order for signature to the Director of the Department of Labor and Economic Growth. The motion carried unanimously.

INFORMATION FROM THE RECORD

1. The territory proposed for annexation consists of 8.48 acres. An apartment complex that houses approximately 120 residents currently exists on the subject property.
2. An issue of discussion at the public hearing on Docket #07-AP-7 (Oak Tree Village) was the annexation (SBC Docket #98-AP-7) and terms of an Act 7 Tax Sharing Agreement for the Independence Village property, which is located directly north of, and contiguous to, the Oak Tree Village property, and consists of approximately 10 acres of a retirement community and 1.7 acres of retention basin.
3. The order to annex the Independence Village property was signed on November 15, 1999 by the department director. The petition was filed August 11, 1998. A copy of the PA 7 agreement between the City of Grand Ledge and Oneida Township that was filed with the Office of the Great Seal/Secretary of State on January 13, 2000, was made part of the 30-day material submitted from the City of Grand Ledge.
4. The PA 7 agreement specifies that the City will share property tax revenue with the Township on Independence Village for forty years after its execution, until January 11, 2040 (the expiration date). Also, according to the terms of the Agreement, it was the "desire" of both the City and the Township "to provide for and to promote the economic development of Independence Village...for the mutual benefit of the citizens of both the City and the Township;..." Further, Article II (Section 2.1 - B) of the agreement refers to "additional property, contiguous to

Independence Village, may be added to this Agreement...,” and “that any additional territory added pursuant to this paragraph shall be annexed from the Township to the City by mutual resolution..., plus any additional territory which may subsequently be added, shall be collectively referred to as the “Annexed Lands.” Any specific reference to Oak Tree Village was not found by commission staff in relation to that language.

5. Fire and emergency service is provided through an agreement (Grand Ledge Area Emergency Services Authority) between both units of government by a special millage.
6. The Township contracts with the Eaton County Sheriff Department for law enforcement and public safety.
7. The Petitioner stated:
 - a. The petition was filed in order to obtain water services at a significantly reduced cost and the benefit of city police protection. Public sewer is already provided to the property by the Township, through agreement with the City of Grand Ledge, without any difference in cost between city and township location.
 - b. They were not aware of other alternatives to annexation.
 - c. Although Mr. McGhie was not directly involved in the PA 7 negotiations in 1999, it is his belief that both the annexation and PA 7 negotiations involving the Independence Village property was not a simple agreement to start with, but rather quite contentious to get it annexed in the first. It is his understanding that the Oak Tree Village property was not included because the ownership company at that time did not want to go through another annexation fight at that time.
 - d. The Oak Tree Village and the Independence Village are apartment communities that are basically city projects, but sister projects as well.
 - e. Current use is consistent with Independence Village, and the level of population density similar to that of Independence Village.
 - f. Annexation of the subject property would cause little or no harm to the community or to Oneida Township, but would be of great benefit to Oak Tree Village and Independence Village.
 - g. Over fifty percent of Oak Tree Village residents are senior citizens, and many of them utilize the services at Independence Village. Although Oak Tree Village rents to all ages, the original design of this apartment complex was intended for seniors, who would then move into Independence Village at some later date. The Oak Tree Village complex is more senior oriented than a normal apartment complex--it does not have much in the way of playgrounds, etc.
 - h. The surrounding area is fairly well developed, with established single-family residential subdivisions along the corridors of Saginaw Highway and Hartel Road.
 - i. Most of the community assumes that Oak Tree Village and Independence Village are one in the same or similar projects.
 - j. City jurisdiction of the subject property would enhance initial interest from future investors.

- k. If the subject property is annexed, a 50 percent reduction in water rates versus the increase in taxes is basically a wash.
- l. Without annexation of the subject property, the Oak Tree Village and the Independence Village communities would continue to be fragmented, particularly with regard to police protection, and Oak Tree would continue to pay significantly higher water rates.
- m. It makes sense to annex Oak Tree Village into the City of Grand Ledge. With Independence Village already in the City, municipal services would be unified for both complexes.

8. The City of Grand Ledge stated:

- a. Support for the proposed annexation.
- b. The subject property is developed and, from a reasonable point of view, is part of the urbanized area of the City of Grand Ledge, which would fairly be paying the city tax rate and paying for the city services that it receives, just like the developed properties that are located inside the City.
- c. Annexation of petitioner's property will "square up" a boundary on W. Saginaw Highway and provide new growth in the form of commercial and residential development, e.g., added revenue, increased jobs, residents, and patronage of nearby businesses and services.
- d. The Act 7 Agreement did specifically contemplate the Township's future loss of the property currently proposed for annexation. This tax sharing agreement applies to any property added to the Agreement. The trigger is the property owner making a written request. For the Township to claim it is now somehow unfair or unjust for the petitioner to request annexation...is entirely contrary to the reasonableness being required of the Commission in this matter.
- e. Although the city police and county sheriff coordinate police protection, the city police station is located 1.1 miles from the subject property. The county sheriff provides an average of 3.5 patrol hours to the entire 33 plus square miles of township per day. It is the understanding of the City that the petitioner prefers full-time city police as the first responder over the current coverage of a part-time and on-call county sheriff.
- f. A City well-field, which is located just off Saginaw Highway and adjacent to the subject property, is the origination of all of the City's public water supply.
- g. The City of Grand Ledge can easily continue to serve the property and provide all the necessary services.
- h. The City does not agree with the Township's assertion that there is no need for additional public services to the subject property. Other services that can be provided by the City include professional planning and development staff, street lighting, and lower cost public water, and sanitary sewer.
- i. The City already provides water and sewer to the area proposed for annexation, and full services to the adjacent Independence Village property including, but not limited to, police, fire, emergency, medical, planning and zoning, tax assessment, municipal water, and sanitary sewer.
- j. If the subject property is annexed, the Township will lose \$961.08 in tax revenue.

9. The Charter Township of Oneida stated:

- a. The Township Board is opposed to the proposed annexation because the property could have been included when the Interlocal Tax Sharing Agreement, pursuant to 1967 PA 7, was negotiated. The agreement was executed by the City and the Township in January 2000.
- b. The subject property is neither an area in which additional development is proposed, nor an area in need of any city services that are not already being provided.
- c. It does not understand why "unification" is now an issue but was not an issue when the subject property was developed approximately seven years ago. The petitioner's criteria questionnaire misleadingly suggests that Oak Tree Village is connected with the Independence Village senior citizen/retirement community to the north. The Township alleges this suggestion is erroneous for the reasons cited on pages 5-6 in the 30-day material submitted by the Township.
- d. That at the time Oak Tree Village was being developed in the Township, the Independence Village property was being developed in the City. The Oak Tree Village project accepted the assistance, coordination and support offered by the Township. The Oak Tree Village and the Independence Village properties have remained side by side, one in Township jurisdiction and one in City jurisdiction, for seven years.
- e. They have not been aware of any problems with any issues in the delivery of services to the Oak Tree Village property, either in general or the apartment complex in particular.
- f. That any relationship of the area proposed for annexation with an adjacent subdivision is non-existent, as the two are separate developments built at different times.
- g. That just because seniors live in the Oak Tree Village apartment complex is not a reason for annexation. Oak Tree Village is an apartment complex totally separate from the senior citizen complex. Although Oak Tree Village and Independence Village were built side-by-side seven years ago, the only connection is that both properties are owned by the same individual.
- h. That the petitioner's opinion that the subject property would enhance initial interest from future investors is refuted by the fact that property values are higher for comparable property in the Township because of the lower taxes in the Township. For developed property like Oak Tree Village, a location in the city is an economic liability, not an advantage.
- i. Both the City and the Petitioner admit, and the Township agrees, that there is no need for additional public services to Oak Tree Village that are not already being provided.
- j. Oak Tree Village has been receiving sewer and water services from the City since 2000 through the Water and Sewer Agreement executed between the City and the Township in 1980. There is no difference in the cost of sewer service for the Township and the City.
- k. Through the sanitary sewer and water service agreement, approximately 400 customers in the Township receive sewer and water; public water is not available to approximately 1,600 Township homes.

- l. The subject property is able to receive city sewer and water because the Township had the foresight to enter into an agreement with the City for which the Township has paid substantial dollars over the years. Oak Tree Village has taken advantage of that use for the last seven years.
- m. Now that the City has imposed a moratorium on new extensions of sewer into the Township, it is all the more reason why those few extensions that the Township has been able to garner should not be ripped away from the Township. Those who have already connected to sewer at the cost of the Township should remain in the Township.
- n. That to allow annexation would deprive the Township of the benefit of the sewer and water agreement.
- o. Any rate difference between the City and the Township is for public water, not sewer.
- p. The \$5,274 decrease in the water rate to Oak Tree Village would more than be offset by paying an increase of \$14,880 in property taxes if the subject property were annexed.
- q. Sewer, water, fire, and police services are available whether the property is in the City or the Township.
- r. The county sheriff satellite office, which is located in the Oneida Township Hall, is actually 2.6 miles from the subject property, not the distance of one mile that was provided by the Township at the public hearing and in the 7-day material, nor the distance of three miles as reported in the Township's questionnaire. Although the City police department is located 1.3 miles from the subject property, the advantage of rapid response by the county is that the sheriff officer would not be delayed by city traffic and congested intersections.
- s. Response to 911 is the same for both municipalities, as the closest available unit to the scene is dispatched.
- t. Annexation of the subject property would result in an annual loss to the Township of \$1,100 in property taxes and \$8,000 in state revenue sharing.
- u. The subject property is 10% of the Township's commercial SEV.
- v. Annexation of property after it has been developed in the Township would not only have a negative effect on future development, but also deprive the Township of the ability to plan for its future physical and financial growth.
- w. The Township is willing to engage in discussions with the City to possibly reach an agreement regarding the subject property, but the City must recognize that the 2000 Agreement was designed to deal with undeveloped property, and Oak Tree Village is now a fully developed project. Any agreement for Oak Tree Village would need to reflect these different circumstances or the parties will be unable to reach an agreement.
- x. Township residents feel this petition is another land grab by the City of Grand Ledge.

FINDINGS OF FACT

1. Land area, land uses, and assessed valuations for the area described in Attachment A are not factors on the subject property and, therefore, do not support the proposed annexation.

2. Overall comparative data from the City of Grand Ledge and Oneida Township do not support the request to annex the subject property from the Township to the City.
3. The probable effect of the subject annexation on the cost and adequacy of governmental services, and the practicability of supplying such services in the area proposed for annexation and on the remaining portion of the Township do not support the reasons for the requested annexation. The subject property is not in need of any significant services that are not already being provided.
4. The present cost, adequacy, and availability of public services which are already being provided effectively and efficiently to the subject property do not support the requested annexation.
5. The past and probable future urban growth, including population increase and business, commercial, and industrial development in the area do not sustain a recommendation for annexation because the subject property has been developed and occupied for approximately seven years.
6. The probable future need for services has not been presented on the record, as motivating factors such as new building or development, existing facility modifications, organized community services, zoning, or land use plans are not prevalent at this time.
7. The significant increase in taxes in relation to the minimal decrease in water rates does not justify consideration to annex the subject property.
8. Annexation of the area described in Attachment A would have a negative effect upon the subject territory or the broader community.

CONCLUSIONS OF LAW

1. The consideration of the criteria stipulated under Section 9 of 1968 PA 191, and the testimony and information contained within the record of this docket, supports the majority decision of the State Boundary Commission to recommend that the Director of the Department of Labor & Economic Growth sign the attached Order to deny the subject annexation.


Kenneth VerBurg, Chairman

December 11, 2008

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission
Docket # 07-AP-7

**The proposed annexation of territory
in Oneida Township to the City of Grand Ledge,
Eaton County.**

ORDER

IT IS ORDERED THAT the proposed annexation of certain territory in Oneida Township, as described in Attachment A, to the City of Grand Ledge is denied.

IT IS ORDERED THAT the Summary of Proceedings, Findings of Fact and Conclusions of Law, and the Order to deny the annexation of certain territory in Oneida Charter Township to the City of Grand Ledge, as described in Attachment A, shall be effective on the date signed below by the Director of the Department of Labor & Economic Growth.

IT IS FURTHER ORDERED THAT the State Boundary Commission shall transmit a copy of this Order with the Summary of Proceedings, Findings of Fact and Conclusions of Law to the clerks of Oneida Charter Township, the City of Grand Ledge, the County of Eaton, and to the Secretary of State.



Stanley "Skip" Pruss, Director
Michigan Department of Energy, Labor & Economic Growth

1/16/09

Date

ATTACHMENT A

Real Property situated in the Township of Oneida, State of Michigan, County of Eaton, and described as follows:

PART OF THE SOUTH 1/3 OF THE EAST 3/4 OF THE NORTHEAST 1/4 OF SECTION 14, T4N-R4W, ONEIDA TOWNSHIP, EATON COUNTY, MICHIGAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 14; THENCE NORTH 89 DEGREES 39 MINUTES 13 SECONDS WEST, 800.99 FEET TO THE POINT OF BEGINNING OF THE PARCEL TO BE DESCRIBED; THENCE NORTH 89 DEGREES 39 MINUTES 13 SECONDS WEST 1,178.54 FEET; THENCE NORTH 00 DEGREES 06 MINUTES 04 SECONDS WEST 319.93 FEET; THENCE NORTH 62 DEGREES 24 MINUTES 10 SECONDS EAST, 28.27 FEET; THENCE SOUTH 72 DEGREES 49 MINUTES 27 SECONDS EAST, 57.57 FEET; THENCE SOUTH 79 DEGREES 01 MINUTES 40 SECONDS EAST 99.82 FEET; THENCE NORTH 74 DEGREES 49 MINUTES 38 SECONDS EAST, 61.13 FEET; THENCE NORTH 88 DEGREES 20 MINUTES 40 SECONDS EAST 39.00 FEET; THENCE NORTH 71 DEGREES 58 MINUTES 24 SECONDS EAST 248.86 FEET; THENCE NORTH 00 DEGREES 06 MINUTES 04 SECONDS WEST, 47.00 FEET; THENCE SOUTH 70 DEGREES 09 MINUTES 26 SECONDS EAST, 92.73 FEET; THENCE SOUTH 00 DEGREES 06 MINUTES 04 SECONDS EAST, 74.72 FEET; THENCE SOUTH 89 DEGREES 39 MINUTES 56 SECONDS EAST 255.43 FEET; THENCE SOUTH 54 DEGREES 39 MINUTES 56 SECONDS EAST 261.72 FEET; THENCE SOUTH 89 DEGREES 39 MINUTES 56 SECONDS EAST, 110.00 FEET; THENCE SOUTH 00 DEGREES 03 MINUTES 32 SECONDS EAST, 185.60 FEET TO THE POINT OF BEGINNING